

REMARKS

This amendment and response is filed in reference to the Office Action (hereinafter “Office Action”) mailed September 14, 2010, as well as the Notice of Non-Compliant Amendment mailed March 29, 2011 (“Notice of Non-Compliance”). In the Office Action, claims 1-26, 28, 29, 31, 33, 36-56 and 58-66 were examined and all claims were rejected. Specifically, claims 5, 9, 13, 16, 63, and 65 were objected to for various informalities (the Applicants respectfully note that the Office Action appears to have mistakenly objected to claim 66 instead of claim 65). Claims 1, 3-4, 9-10, 16-17, 20, 36, 38-41, 44-45, 51-52, 55-56, 58, 60-63, and 65-66 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Jerger et al. (U.S. Pat. No. 6,321,334; hereinafter “**Jerger**”). Claims 2, 37 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jerger in view of Touboul (U.S. Pat. No. 6,092,194; hereinafter “**Touboul**”). Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue (U.S. Pat. No. 6,202,207; hereinafter “**Donohue**”). Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue, and further in view of Pennell et al. (U.S. Pat. Publ. No. 2003/0098883; hereinafter “**Pennell**”). Claims 11-15, 18-19, 21, 23-26, 28-29, 31, 33, 42-43, 46-50, 53-54, and 64 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell. Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell, and further in view of Touboul.

In a Response filed December 14, 2010, the Applicants proposed amendments to the claims and specification, and presented arguments discussing the art set forth within the Office Action. In the Response filed December 14, 2010, claims 1, 5, 7, 9, 11, 20-21, 25-26, 28, 36, 40-43, and 45 were amended, claims 6, 8, 10, 12-19, 29, 31, 33, 44, and 46-66 were canceled, and claims 67-72 were added. Although the Examiner entered the amendments to the claims, the Examiner responded to the Response filed December 14, 2010 by issuing the Notice of Non-Compliance and stating:

In the instant case, the invention as currently claimed is materially different in function or effect than the previously presented claims. Whereas the earlier claims were directed to inventions for suppressing activatable objects based on a determination of the trust level

of the object, the current claims eliminate that requirement; instead they are now drawn to inventions for suppressing activatable objects based on whether or not the source of the object was a previously blocked certificate. Furthermore, the current claimed inventions and previously claimed invention are mutually exclusive: an invention for suppressing activatable objects based on the trust level of the object would not infringe an invention for suppressing an activatable object based on whether the source of the object was a previously blocked certificate, and vice versa. ...Finally there is nothing of record to show them to be obvious variants. Notice of Non-Compliance, pp. 2-3.

In response to the Notice of Non-Compliance, pursuant to 37 CFR §§ 1.143, 1.144, and 1.145, and in order to expedite prosecution of the instant case, the Applicants hereby amend the claims in order to restrict the claims to the invention(s) previously claimed (i.e., to the invention(s) for suppressing activatable objects based on the trust level of the object). With respect to the Examiner's statements made within the Notice of Non-Compliance, the Applicants agree that the then current claimed inventions and previously claimed inventions, as claimed as of the date of the Notice of Non-Compliance, are "mutually exclusive" and that "there is nothing of record to show them to be obvious variants." Notice of Non-Compliance, pp. 2-3. Consequently, the Applicants hereby reserve, without prejudice, the right to file a continuation application to pursue the inventions claimed as of the date of the Notice of Non-Compliance (i.e., to the invention(s) for suppressing an activatable object based on whether the source of the object was a previously blocked certificate).

Additionally, while the Applicants believe that the amendments to the claims from the Response filed December 14, 2010 were entered into the instant case, it is unclear whether the amendments to the specification were similarly entered by the Examiner. Thus, in an abundance of caution, the Applicants present the same amendments to the specification as were first supplied with the Response filed December 14, 2010.

Thus, reconsideration of the rejections set forth within the Office Action, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 21, 28, 36, and 40-43 have been amended, claims 67-72 have been canceled, and no claims have been added. Therefore, claims 1-5, 7, 9, 11, 20-26, 28, 36-43, and

45 remain present for examination. Applicants submit that the claim amendments are supported throughout the specification, and in the claims as originally filed, and do not introduce new matter.

Claim Objections

Within the Office Action, Claims 5, 9, 13, 16, 63, and 66 were objected to for various informalities. In this Response filed December 14, 2010, claims 13, 16, 63, and 66 were canceled, thus rendering moot the prior objection. In addition, claims 5 and 9 were amended to remove the language objected to by the Examiner. As such, Applicants respectfully request that the Examiner withdraw the objections of claims 5 and 9 and allow the claims at the Examiner's earliest convenience.

Claim Rejections under 35 U.S.C. § 102(b)

Claims 1, 3-4, 9-10, 16-17, 20, 36, 38-41, 44-45, 51-52, 55-56, 58, 60-63, and 65-66 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Jerger. Applicants respectfully traverse this rejection because either the Examiner failed to state a *prima facie* case of anticipation or the current amendments to the claims now render the Examiner's arguments moot. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Mashinenfabrik GmbH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984); *see also*, MPEP § 2131. Applicants submit that the cited reference does not disclose all of the elements of the rejected claims, as amended.

Independent Claim 1

Claim 1, as amended, recites, *inter alia*:

when the trust level accorded to the object reaches a threshold trust level based on the variable combinations of the content, source, and action of the object, evaluating a content of the object to determine whether the object contains an upgrade for a program already existing on the client device; and

upon determining that the content of the object contains the upgrade for the program already existing on the client device, providing an activation opportunity comprising:

displaying a prompt to advise the user that the content of the object contains the upgrade for the program already existing on the client device; and

displaying a selection opportunity for the user to accept or decline the upgrade of the program already existing on the client device.

Claim 36, as amended, recites, *inter alia*:

a trust analyzer on the browser at the client device, wherein the trust analyzer is configured to perform a trust analysis for the object, wherein the trust analyzer performs the trust analysis for the object as part of displaying the web page using a trust level accorded to the object based on an evaluation of at least one of: a source, a content, and an action of the object comprising:

suppressing the action associated with the object and displaying a modeless prompt to advise the user of the suppression of the action associated with the object, wherein the modeless prompt provides a description of the object for which the action is being suppressed; and

when the trust level accorded to the object reaches a threshold trust level based on the evaluation of at least one of the source, the content, and the action of the object, evaluating a content of the object to determine whether the object contains an upgrade for a program already existing on the client device;

a suppressor to suppress the action associated with the object when the trust level accorded to the object does not reach a threshold trust level based on variable combinations of the content, source, and action of the object; and

a user interface to provide an activation opportunity, the activation opportunity comprising:

displaying a prompt to advise the user that the content of the object contains the upgrade for the program already existing on the client device;
and

displaying a selection opportunity for the user to accept or decline the upgrade of the program already existing on the client device.

In contrast, Jerger discloses computer-based systems and methods for a comprehensive security model for managing foreign content downloaded from a computer network. Specifically, Jerger provides for using one or more independently configurable security zones, whereupon each security zone corresponds to a group of network connections and may have configurable security settings to control access to a host system from the computer network. As such, the systems and methods disclosed by Jerger are different from the present systems. Specifically, Jerger fails to teach or describe, *inter alia*, “evaluating a content of the object *to determine whether the object contains an upgrade for a program* already existing on the client device,” as recited in claim 1 (emphasis added). As such, Jerger does not anticipate claim 1.

Independent Claims 21 and 36

The other independent claims, namely claims 21 and 36, recite identical or similar limitations and are allowable over Jerger for at least the same reasons as set forth above. Specifically, claims 21 and 36 recite, *inter alia*, “evaluating a content of the object *to determine whether the object contains an upgrade for a program* already existing on the client device” (emphasis added). As such, independent claims 21 and 36 are not anticipated by Jerger and are allowable for at least the same reasons as claim 1.

The dependent claims, *i.e.* claims 2-5, 7, 9, 11, 20, 22-26, 28, 37-43, and 45 incorporate all of the limitations of the above independent claims, respectively, and are allowable over Jerger for at least the same reasons. As such, Applicants respectfully request that the Examiner

withdraw the rejection and allow claims 1-5, 7, 9, 11, 20-26, 28, 36-43, and 45 at the Examiner's earliest convenience.

Claim Rejections Under § 103(a)

Claims 2, 37 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jerger in view of Touboul. Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue. Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue, and further in view of Pennell. Claims 11-15, 18-19, 21, 23-26, 28-29, 31, 33, 42-43, 46-50, 53-54, and 64 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell. Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell, and further in view of Touboul. Applicants respectfully traverse the § 103(a) rejections because either the Examiner failed to state a *prima facie* case of obviousness or the current amendments to the claims now render the Examiner's arguments moot.

To establish a *prima facie* case of obviousness, the references must teach or suggest each and every one of the claim elements to one of ordinary skill in the art at the time the invention was made. *See* MPEP §§ 2142, 2143.03; *In re Wilson*, 424 F.2d 1382, 1385 (C.C. P.A. 1970). In addition, *KSR International Company v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007), requires that there "must be some *articulated reasoning with some rational underpinning* to support the legal conclusion of obviousness." (Emphasis added.) Further, "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Int'l Co.*, 127 S. Ct. at 1741. Specifically, the references fail to teach or suggest all of the claim elements. Applicants herein incorporate by reference their prior discussion regarding Jerger and further submit that Jerger fails to teach or suggest all of the claimed limitations for the reasons set forth above. Additionally, the combinations of Jerger with Touboul, Donohue, and Pennell fail to compensate for the deficiencies of Jerger.

Claims 2, 37, and 59

Claims 2, 37 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jerger in view of Touboul (U.S. Pat. No. 6,092,194; hereinafter “**Touboul**”). Touboul relates to “a system [that] comprises an inspector and a protection engine” and does not cure the deficiencies of Jerger, discussed above. (Touboul, Abstract). The system in Touboul discloses “downloadable security profiles.” (Touboul, col. 5, ll. 28-32). The downloadable security profile “preferably includes a list of all potentially hostile or suspicious computer operations that may be attempted by the Downloadable, and may also include the respective arguments of these operations.” (Touboul, col. 4, ll. 4-7). The downloadable security profile is then compared to the local security policy. (Touboul, col. 5, ll. 28-32). The identified portions of Touboul fail to teach or suggest the recited embodiments of the present application. Applicant respectfully requests a withdrawal of the rejection for claims 2, 37, and 59, and an issuance of a notice of allowance at Examiner’s earliest convenience.

Claims 5 and 6

Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue (U.S. Pat. No. 6,202,207; hereinafter “**Donohue**”). Donohue relates to a method and a mechanism for synchronized updating of interoperating software and does not cure the deficiencies of Jerger, discussed above. Applicant respectfully requests a withdrawal of the rejection for claims 5 and 6, and an issuance of a notice of allowance at Examiner’s earliest convenience.

Claims 7 and 8

Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Donohue, and further in view of Pennell et al. (U.S. Pat. Publ. No. 2003/0098883; hereinafter “**Pennell**”). Pennell does not compensate for the deficiencies of Jerger and Donohue. The identified portions of Pennell relate to blocking bad windows and displaying good windows. (Pennell, para. [0043]). When a bad window is identified, Pennell blocks the bad window displaying a prompt to indicate suppression of the window. (Pennell, para. [0081]). The identified portions of Pennell fail to teach or suggest the recited embodiments of the present

application. Applicant respectfully requests a withdrawal of the rejection for claims 7 and 8, and an issuance of a notice of allowance at Examiner's earliest convenience.

Claims 11-15, 18-19, 21, 23-26, 28-29, 31, 33, 42-43, 46-50, 53-54, and 64

Claims 11-15, 18-19, 21, 23-26, 28-29, 31, 33, 42-43, 46-50, 53-54, and 64 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell. The Applicants respectfully submit that the combination of Jerger and Pennell, for the same reasons as discussed above, fails to teach or suggest the recited embodiments of the present application. Applicant respectfully requests a withdrawal of the rejection for claims 11-15, 18-19, 21, 23-26, 28, 31, 33, 42-43, and 45, and an issuance of a notice of allowance at Examiner's earliest convenience.

Claim 22

Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Jerger in view of Pennell, and further in view of Touboul. The Applicants respectfully submit that the combination of Jerger, Pennell and Touboul, for the same reasons as discussed above, fails to teach or suggest the recited embodiments of the present application. Applicant respectfully requests a withdrawal of the rejection for claim 22, and an issuance of a notice of allowance at Examiner's earliest convenience.

Official Notice

Further, with respect to claim 7, the Applicants note that the Office Action took "Official Notice" that:

[I]t is notoriously well known in the art to provide a description of an action to the user with a modeless prompt. Examples abound: modeless prompts describing status and actions have been a part of GUI-based OS systems from their inception. The basic rational [sic] for providing a description with a modeless prompt is that it informs the user 1) an action was taken and 2) what the action was. Furthermore, a modeless prompt that is displayed when an object is suppressed without any description of the object being suppressed is analogous to an alert of a situation without any description of the situation;

in both scenarios, a message that identified what has occurred enables the receiver of the prompt or alert to properly react to the prompt or alert. Office Action, at 14.

The Applicants do not necessarily agree with the Official Notice, nor do they acquiesce to the statements made in the Office Action regarding the Official Notice. Nevertheless, since the Jerger, Touboul, Donohue, and Pennell references fail to teach the features of claim7, as amended, and as noted above, *see* discussion *supra*, and no additional references have been cited that compensate for the deficiencies in the Jerger, Touboul, Donohue, and Pennell references, the issue regarding the accuracy of the Official Notice is moot.

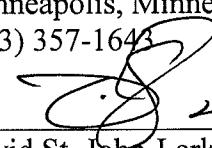
CONCLUSION

This Amendment fully responds to the Office Action mailed on September 14, 2010 and the subsequent Notice of Non-Compliance mailed March 29, 2011. Still, that Office Action and the Notice of Non-Compliance may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they were rendered moot in light of the preceding arguments in favor of patentability. Hence, the failure of this Amendment to directly address an argument raised in the Office Action and Notice of Non-Compliance should not be taken as an indication that the Applicant believe the argument has merit. Furthermore, the claims of the present application may contain other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

It is believed that a one (1) month extension fee, under 37 CFR § 1.136(a), and no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

Respectfully submitted,

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